

APPEAL NO. 032576
FILED NOVEMBER 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 27, 2003. The hearing officer determined that the respondent's (claimant) horseplay was a producing cause of the claimed injury thereby relieving the appellant (carrier) of liability for compensation. The carrier appealed on sufficiency of the evidence grounds, asserting that the claimant was an unwilling participant. The claimant did not file a response.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determination. Whether the claimant was a willing participant in horseplay at the time of her injury was a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge